



British
Association
of Landscape
Industries

COVID-19 BALI FAQ – Government Business Support

In addition to the guidance below, BALI members are advised to watch a webinar presented by BALI Registered Affiliate member Oracle Solicitors on 3rd April 2020. As part of this webinar, a HR professional discussed the implications of the Governments Coronavirus Job Retention Scheme and answered questions regarding furloughing staff and the likely implications of this for the landscape industry. A link to this webinar is below:

<https://www.gotostage.com/channel/f3a569d28c1b4903b3d67cd3c19649f2/recording/c6d81bb667e146c9975d917d0a38cddf/watch?source=CHANNEL>

Please note: The questions on the following pages were generated by BALI members during a webinar on 3rd April 2020. The answers are intended as a guide only and members should seek professional advice for specific questions.

Oracle Solicitors specialise in all aspects of law for commercial, corporate and individual clients. They can be contacted at <https://oraclesolicitors.co.uk/>

A series of support packages have been offered by the government to help businesses affected by COVID-19. The main ones are outlined below:

- 1. Coronavirus Business Interruption Loan Scheme (CBILS)**

- Suitable for any small/medium business with a turnover of up to £45 million
- Government-backed finance of up to £5 million
- Interest payments and any lender-levied fees for businesses will be covered by the government for an initial period of up to twelve months
- Scheme available through more than 40 accredited lenders, listed on the British Business Bank website: <https://www.british-business-bank.co.uk/ourpartners/coronavirus-business-interruption-loan-scheme-cbils/accredited-lenders/>
- Apply to this scheme at the following link: <https://www.british-business-bank.co.uk/ourpartners/coronavirus-business-interruption-loan-scheme-cbils/for-businesses-and-advisors/>

2. Bounce Back Loan Scheme

- Launched on 4th May 2020 to help companies rejected from CBILS schemes
 - Aimed at small to medium-sized businesses (fewer than 10 employees/sole trader)
 - Loans of between £2,000 and £50,000 offered (Maximum of 25% of turnover)
 - No fees for first year and fixed rate of 2.5% thereafter. Maximum term of 6 years.
 - Fast, online application process from approved banks listed in link below: <https://www.british-business-bank.co.uk/ourpartners/coronavirus-business-interruption-loan-schemes/bounce-back-loans/current-accredited-lenders-and-partners/>
 - No personal guarantee or security required

- Existing CBILS scheme can be converted to Bounce Back Loan to take advantage of lower interest rate offered by Bounce Back Loan

3. Bank of England Covid Corporate Financing Facility

- Suitable for larger firms with a turnover of over £45 million
- Allows businesses to purchase short-term corporate debt – known as commercial paper – allows companies who are experiencing severe disruption to cash flows to quickly raise working capital
- Scheme available through the following banks:
<https://www.ukfinance.org.uk/covid-19-corporate-financing-facilities>

The Small Business Grant Fund is available to small businesses and businesses in the retail, hospitality and leisure sectors. Under this grant, all businesses in receipt of Small Business Rates Relief (SBRR) and Rural Rates Relief (RRR) will be eligible for a payment of up to £10,000.

- More details available from here:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/874772/small-business-grant-fund-and-retail-guidance.pdf

4. Coronavirus Job Retention Scheme

The government setup the **Coronavirus Job Retention Scheme (CJRS)** to allow all UK businesses to access financial support to continue paying part of employees and individuals such as office holders, company directors and agency workers', salaries.

The CJRS applies to any employee who is furloughed by reason of circumstances as a result of coronavirus. These repayments are a grant, not a loan.

The deadline for employers wishing to furlough an employee for the first time was 10th June 2020. Only those employees who are currently on furlough, or have been furloughed at some point since 1st March 2020, are now permitted to use the scheme.

From 1st July 2020 the scheme evolved to encourage furloughed staff back into work. The minimum three-week furlough period has been removed and employers are permitted to put employees on part-time furlough. Employers will be required to pay only for the time staff are working, whilst a government grant covers furloughed hours. The proportion of time spent working/furloughed is subject to agreement by the employer and employee.

Note: Claims for furlough periods up to 30th June 2020 must be made by 31st July 2020.

From 1st August 2020, the terms of the coronavirus job retention scheme will evolve slightly:

- From 1st to 31st August 2020, the government will pay 80% of employees' wages, whilst employers will be required to pay National Insurance and pension contributions.
- From 1st September to 30th September 2020, the government will pay 70% of employees' salaries, whilst employers are required to contribute 10% and pay National Insurance and pension contributions
- From 1st October 2020 to 31st October 2020, the government will pay 60% of employees' salaries, whilst employers are required to contribute 20% and pay National Insurance and pension contributions.

As before, changing the status of employees to 'furloughed worker' is subject to employment law and must be agreed between employer and employee. Employers are required to notify employees of their furlough status in writing (which may be in an electronic form such as email), to specify the main terms and conditions of the arrangement and to incorporate these (expressly or impliedly) in the employee contract. A record of this written notification must be retained until at least 30th June 2025.

A template letter and additional guidance is available to members who wish to furlough workers. Please see the BALI website for more details: <https://www.bali.org.uk/help-and-advice/covid-19-coronavirus/>

Employers are encouraged to follow the process below:

1. Check if you can claim

<https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme>

2. Check which employees you can put on furlough

<https://www.gov.uk/guidance/check-which-employees-you-can-put-on-furlough-to-use-the-coronavirus-job-retention-scheme>

3. Steps to take before calculating your claim using the CJRS

<https://www.gov.uk/guidance/steps-to-take-before-calculating-your-claim-using-the-coronavirus-job-retention-scheme>

4. Calculate how much you should claim

<https://www.gov.uk/guidance/calculate-how-much-you-can-claim-using-the-coronavirus-job-retention-scheme>

5. Claim for your employees' wages online

<https://www.gov.uk/guidance/claim-for-wages-through-the-coronavirus-job-retention-scheme>

6. Report a payment

<https://www.gov.uk/guidance/reporting-payments-in-payee-real-time-information-from-the-coronavirus-job-retention-scheme>

Worked example

https://www.gov.uk/government/publications/find-examples-to-help-you-work-out-80-of-your-employees-wages/example-of-a-full-calculation-for-an-employee-who-is-flexibly-furloughed?mc_cid=0b1a0e042a&mc_eid=7b3d18c8e7

Job Retention Bonus

A Job Retention Bonus scheme has been announced by the government, that will reward employers who retain workers who have previously been furloughed. A one-off payment of £1,000 will be made by the government from February 2021, to all employers who ensures any worker who was furloughed during 2020 remains in continuous work through to the end of January 2021. Full details of this initiative will be announced at the end of July 2020.

Useful links:

Full terms of coronavirus job retention scheme:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/886959/CJRS_DIRECTION_No2_20_05_2020.pdf

HMRC portal: <https://www.access.service.gov.uk/login/signin/creds>

Individuals you can claim for who are not employees:

<https://www.gov.uk/government/publications/individuals-you-can-claim-for-who-are-not-employees/individuals-you-can-claim-for-who-are-not-employees>

Step by step guide for employers wishing to use Coronavirus Job Retention Scheme:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/886959/CJRS_DIRECTION_No2_20_05_2020.pdf

[m/uploads/attachment_data/file/880099/Coronavirus Job Retention Scheme step by step guide for employers.pdf](https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme)

Government Coronavirus Job Retention Scheme:

<https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme>

Please see link below for full details of Coronavirus Job Retention Scheme: <https://www.gov.uk/guidance/check-if-you-could-be-covered-by-the-coronavirus-job-retention-scheme>

Government factsheet:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/888764/Factsheet for SEISS and CJRS schemes.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/888764/Factsheet_for_SEISS_and_CJRS_schemes.pdf)

Q: Can an employee be put on furlough more than once?

A: The guidance issued by the government states an employer can place employees on furlough more than once. Click the link here: <https://www.gov.uk/guidance/check-if-you-could-be-covered-by-the-coronavirus-job-retention-scheme> and scroll down to the section titled 'While you're on furlough' you will see the following text:

'If your employer chooses to place you on furlough, you will need to remain on furlough for a minimum of 3 weeks. However, your employer can place you on furlough more than once, and one period can follow straight after an existing furlough period, while the scheme is open. The scheme will be open for at least 3 months'.

Remember the minimum furlough period is 21 calendar days in order to qualify for job retention scheme payments, and that the furlough scheme must still be open in order to qualify for job payments. The Government's Coronavirus Job Retention Scheme is currently in place

for 3 months from 1st March 2020 but may be extended by the Government.

Q: How does the furlough week work?

A: Monday through to Sunday is one week for the purposes of furlough.

Q: How do I bring employees off furlough?

A: Employers are required to contact employees and advise them of the date they are due to restart work. BALI would suggest an initial call is followed up by an email or letter, and that a reasonable notification period is given by the employer.

Q: Some of my staff have been offered employment by another company dealing in a critical line of work. Can they receive payment for this whilst being furloughed with us?

A: If furloughed workers work for another employer during the hours they would normally be working for the employer that furloughed them, there is no government guidance on this point at present. It does seem that HMRC will make payments even if the employee picks up other work. The current guidance only prevents the employee from doing any work for the employer that has furloughed them or any employer linked to their current employer.

Q: Does the Coronavirus Act apply to all 4 Nations?

Yes, generally speaking, the Coronavirus Act 2020 applies UK wide. There are sections within it that have specific application to Scotland or Wales - these are clearly indicated within the Act sub-headings. A

link to the Act is here: <http://www.legislation.gov.uk/ukpga/2020/7/contents> There is an additional Coronavirus (Scotland) Act 2020, which builds on the Coronavirus Act 2020 provisions.

Q: If we stop a furlough period at the end of the first 3 week period and expect all staff to come back to work, can you confirm there is no requirement to pay them at all if they decide not to return to work due to fears surrounding COVID-19, or whether employees are able to claim SSP during this time?

A: In this situation, employees would not be able to claim SSP at the end of the furlough period, unless they are ill or self-isolating in accordance with official government guidance. Fears about COVID-19 do not equate to eligibility for SSP. You would not be required to pay employees where their absence from work is unauthorised.

Q: If an employee has holiday previously booked but the day is during a period of furlough, can the business make the employee take it rather than cancel it? And if holiday is taken as part of the furlough, it is my understanding that this then extends the furlough period by the amount of days taken as leave. Is this correct?

A: On the general point of whether an employer can require an employee to take leave at specified times, the answer is yes. At present, the government guidance is silent on the specific issue of whether annual leave can be taken during a furlough leave period. ACAS, for example, are suggesting "no", many legal commentators currently disagree. In my view (subject to further clarification from the government if/when it is published), the answer is that it is not inconsistent for annual leave to be taken while on furlough leave (there is precedent for this in principle, in that maternity leave can be

claimed (and paid for) under the scheme - the key element appears to be that the individual is not working on the days they claim under furlough). I do not consider that the furlough period is "extended" in the circumstances.

Q: Do furloughed workers accrue holiday? Will the government cover the cost of this since in essence as a business owner we will be running up this debt whilst they are being furloughed? or can you force the furloughed person to take holiday as part of their furlough period?

A: Furloughed workers do accrue holiday. If the annual leave is taken while on furlough leave, the job retention scheme may apply (see answer above) and therefore 80% of the cost might be covered. There is nothing in the guidance to say that there will be additional payments for annual leave accrued during furlough leave that is not taken during furlough leave.

Q: Do businesses get support from the government for statutory sick pay paid out as a result of COVID-19?

The government are currently bringing forward legislation to ensure small and medium-sized businesses can reclaim statutory sick pay (SSP) paid out for employee absence as a result of COVID-19.

The refund will cover up to 2 weeks SSP for each employee who has been off work because of the virus and is eligible to all employers with fewer than 250 employees.

Employers are required to maintain records of staff absences and payments of SSP, but employees are not required to provide a doctors note. If evidence is required by an employer, any employee with symptoms can get a note from NHS 111 online

<https://111.nhs.uk/covid-19>.

Details of how this system will work, and how the repayment mechanism will operate have not yet been released by the government, but details are likely in the next few weeks.

Q: Will VAT and Income Tax payments be deferred?

Yes. All UK businesses are automatically eligible (no applications are required for this) to defer Value Added Tax (VAT) payments for the period 20th March 2020 until 30th June 2020 (3 months) and pay any liabilities that have accumulated at the end of the 2020 – 2021 tax year.

All UK businesses are also automatically eligible (no applications required for this) to defer Income Tax Self-Assessment payments due on 31st July 2020 until 31st January 2021. No penalties or interest for late-payment will be charged in the deferral period.

Q: I am self-employed; what can I do?

The government's Self-employment Income Support Scheme (SEISS) allows claimants to claim two taxable grants; the first worth 80% of their average trading profits up capped at £7,500 and the second worth up to 70% of their average trading profits, capped at £6,750.

Any self-employed individual or member of a partnership can apply for this scheme, providing they have submitted their Income Tax Self-Assessment tax return for the tax year 2018-2019, have traded in the tax year 2019-2020 are currently trading (or would be except for COVID-19) and intend to continue trading in the tax year 2020-2021.

Anyone applying for this scheme must have profits of less than £50,000. Self-employed people with profits of more than £50,000

will not benefit from this scheme but are entitled to pursue other schemes listed below.

Applications for the first grant opened on 13th May 2020 and will close on 13th July 2020. Applications for the second grant will open in August 2020 (details will be released on Friday 12th June 2020). Those eligible will have the money paid into their account within 6 days of completing a claim. An individual does not need to have claimed the first grant to receive the second grant.

The following additional measures have been put in place for self-employed workers by the government:

- The government has suspended the minimum income floor for the self-employed, meaning self-employed people can now access, in full, Universal Credit at a rate equivalent to Statutory Sick Pay for employees.
- A helpline (0800 0159 559) has been setup by the government for self-employed people who cannot pay their tax due to COVID-19. Options include agreeing an instalment arrangement, cancelling penalties and interest. More information is available on the following site:

<https://www.gov.uk/government/news/tax-helpline-to-support-businesses-affected-by-coronavirus-covid-19>

- Contact your insurer for advice on whether your business interruption policy can be used in relation to COVID-19

Q: What pay/grant is there available for Directors of a limited company? We do have a small wage through payroll, could we get the 80% on the job retention scheme? Or are we classed as self-employed?

Under the current guidance only the PAYE salary element would fall within the job retention scheme (i.e. not any dividend element). Unfortunately, you would not be treated as self-employed either and

so, for directors, they will need to consider many of the other assistance available to ensure that there are sufficient funds to provide them with an income (e.g. business interruption loans, business rates reductions, delaying tax/VAT payments etc).